

REMARKS

The Office Action mailed October 17, 2007 has been received and carefully considered. Claims 61-62, 64-65, 70, 74 and 78 have been amended. Claims 1, 6-8, 10, 12-13, 15-21, 23-25, 28-30, 34, 37, 39-43, 45-46, 49-58, 60-65, and 66-78 are currently pending in the present application. It is believed that this Amendment, in conjunction with the following remarks, places the application in immediate condition for allowance.

A. The Rejection of Claims 61-62 and 64-65 under 35 § 112, first paragraph

Claims 61-62 and 64-65 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. While Applicants respectfully disagree with the Examiner, claims 61-62 and 64-65 have been amended to remove the language for which the Examiner requested clarification.

Claims 61 and 64 have been amended to remove the language “said CTI server adapted to automatically notify an application program running at said receiver of the existence of said unit of work record.” Similarly, claims 62 and 65 have been amended to remove the language “wherein said application program automatically notifies said CTI server that said unit of work record has been updated and is available to be accessed during a next transaction.”

Therefore, Applicants respectfully submit that the rejection is overcome and claims 61-62 and 64-65 are in condition for allowance.

B. The Rejection of Claims 70, 74 and 78 under 35 § 112, second paragraph

Claims 70, 74 and 78 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which application regards as the invention. While Applicants respectfully disagree with the Examiner, claims 70, 74 and 78 have been amended to remove the language for which the Examiner requested clarification. Applicants note that the rejection states claim 79 is rejected. However, claim 79 does not exist in the Application. Applicants assume the Examiner intended to refer to claim 78 and the rejection will be addressed as such.

Claims 70, 74 and 78 have been amended to remove the language “loan condition.” Therefore, Applicants respectfully submit that the rejection is overcome and claims 70, 74 and 78 are in condition for allowance.

C. The Anticipation Rejection of Claims 1, 6-8, 10, 12-13, 15-21, 23-25, 28-30, 34, 37, 39-43, 45-46, 49-58 and 60-78

Claims 1, 6-8, 10, 12-13, 15-21, 23-25, 28-30, 34, 37, 39-43, 45-46, 49-58 and 60-78 stand rejected under 35 U.S.C. § 102(e), as allegedly being anticipated by U.S. Patent No. 6,553,133 (*Dhir*).

The filing date and earliest priority date of U.S. Patent No. 6,553,133 (*Dhir*) is July 9, 1999. The present application is a continuation of U.S. Patent Serial No. 09/378,515 which was filed August 20, 1999. Thus, the filing date of U.S. Patent No. 6,553,133 (*Dhir*) is only over one month before the priority date of Applicant’s applications.

Under 37 C.F.R. § 1.131 the inventors “may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.” 37 C.F.R. § 1.131 requires that “[t]he showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, *or* conception of the invention prior to the effective date of the reference coupled with diligence from prior to said date to a subsequent reduction to practice *or* to the filing date of the application. (emphasis added).

Therefore, Applicant submits herewith the declarations of Alan R. Truitt and Ralph H. Reese under 37 C.F.R. § 1.131 that establishes an actual reduction to practice prior to the effective date of U.S. Patent No. 6,553,133 (*Dhir*) as required by 37 C.F.R. § 1.131(b). The declarations of Alan R. Truitt and Ralph H. Reese under 37 C.F.R. § 1.131 *also establishes* conception before the filing date of U.S. Patent No. 6,553,133 (*Dhir*) and diligence in reducing the invention to practice between July 9, 1999 and August 20, 1999.

1. Actual Reduction to Practice

The declarations by the inventors, Alan R. Truitt and Ralph H. Reese, establish an actual reduction to practice prior to July 9, 1999. The following *facts* demonstrate that the invention

was actually reduced to practice by the inventors. Namely, an Interactive Voice Response (IVR) system of the present invention was built for Fleet Credit Card Services before July 9, 1999.

1. Exhibit M of the declarations of Alan R. Truitt and Ralph H. Reese is a true and correct copy of a proposal sent to Fleet Credit Card Services in September 1998, offering to implement a customer service and technical support transaction system incorporating the presently claimed invention. This system is a reduction to practice of the presently claimed invention and was in fact implemented and reduced to practice before July 9, 1999.
2. Exhibit N of the declarations of Alan R. Truitt and Ralph H. Reese is a true and correct copy of a detailed status report of the task completion dates for the implementation of the presently claimed invention, last updated October 25, 1998.
3. Exhibit O of the declarations of Alan R. Truitt and Ralph H. Reese is a true and correct copy of a system report run on December 1, 1998, detailing the performance of the presently claimed invention with respect to different voice prompts and user responses. Exhibit O demonstrates that 10,147 calls were received by the IVR system during November 1998 and that an embodiment in accordance with the present invention was operating at least as early as November 1998.
4. Exhibit P of the declarations of Alan R. Truitt and Ralph H. Reese is a true and correct copy of a Fleet Process Checklist dated December 7, 1998, specifying the daily responsibilities for running the reports, including reports for the process *Agent+IVR*, which, for example, implemented the presently claimed invention.

The forgoing demonstrates a system of the present invention that was actually reduced to practice at least as early as November 2008. The proposal sent to Fleet Credit Card Services in September 1998 describes a proposal for a system with an IVR automated attendant. *See Exhibit M, pages 2 and 6.* The inventors have both sworn that this same system was in fact built for Fleet Credit Card Services.

Exhibit N shows the various tasks being completed while implementing the system including the IVR Application being completed on October 26, 1998.

Exhibit O details the performance of the presently claimed invention with respect to different voice prompts and user responses. Namely, Exhibit O demonstrates the call flow that took place for over 10,147 calls that were received and processed by the IVR system in November 1998. Exhibit O is a report that demonstrates how efficiently the system is working, how much information is provided to the caller, how much information is received by the IVR system from the caller and when a user hangs up or is transferred to a live agent. This exhibit demonstrates that the apparatus actually existed and worked for its intended purpose. Namely, many of the people calling the system interacted with the IVR system before speaking to a live agent and provided information to the IVR system.

Exhibit P specifies the daily responsibilities for running the reports, including reports for the process *Agent+IVR*, which, for example, implemented the presently claimed invention.

Therefore, Applicant respectfully submits the declarations of Alan R. Truitt and Ralph H. Reese demonstrate that presently claimed invention was actually reduced to practice by November 1999, which is prior to July 9, 1999. Therefore, Applicants respectfully submit, for at least the reasons stated above, that *Dhir* does not anticipate the pending claims and that the present rejections are overcome.

2. Conception and Diligence to Filing

Applicant has not only demonstrated an actual reduction to practice, but the declarations of Alan R. Truitt and Ralph H. Reese *also demonstrate* conception of the invention prior to the effective date of the reference coupled with diligence from prior to said date to the filing date of the application. Namely, the declarations of Alan R. Truitt and Ralph H. Reese demonstrate a conception before July 9, 1999 and diligence in preparing and filing the patent application from between July 9, 1999 through August 20, 1999. The following *facts* demonstrate that the invention was conceived before July 9, 1999 and that the inventors and attorney were diligent in preparing and filing the patent application from between July 9, 1999 through August 20, 1999.

1. Exhibit A is a true and correct copy of a facsimile cover sheet and a first draft patent application for the present invention that was sent via facsimile from Jeff Standley to me on April 14, 1999. This document shows a conception date at least as early as April 14, 1999.

2. Exhibit B is a true and correct copy of a facsimile confirmation report demonstrating that Exhibit A was successfully transmitted on April 14, 1999.
3. Exhibit C is a true and correct copy of a facsimile cover sheet and a second draft patent application for the present invention that was sent via facsimile from Jeff Standley to Ralph Reese on June 23, 1999.
4. Exhibit D is a true and correct copy of a facsimile that was received by Jeff Standley from Ralph Reese on June 23, 1999, demonstrating that portions of Exhibit C were received by Ralph Reese on June 23, 1999.
5. Exhibit E is a true and correct copy of a facsimile confirmation report demonstrating that Exhibit C was successfully re-transmitted to Ralph Reese on June 29, 1999.
6. Exhibit F is a true and correct copy of a facsimile that was received by Jeff Standley from Ralph Reese on June 30, 1999.
7. Exhibit F includes a coversheet and comments regarding the second draft application for the present invention, and has an automatically generated timestamp demonstrating that Exhibit F was received on June 30, 1999.
8. On August 3, 1999, Alan Truitt had a telephonic conversation with Jeff Standley regarding the second draft application for the present invention.
9. Exhibits C and E include handwritten notes by Jeff Standley dated August 3, 1999, reflecting the conversation between Alan Truiit and Jeff Stadley of the same date.
10. Exhibit G is a true and correct copy of a coversheet and a third draft application of the present invention sent via Airborne Express from Jeff Standley to me on August 6, 1999.
11. Exhibit H is a true and correct copy of an Airborne Express shipping label demonstrating that Exhibit G was shipped on August 6, 1999.
12. Exhibit I is a true and correct copy of the Assignment pertaining to the present invention signed by me on August 16, 1999, and by Ralph Reese on August 17, 1999.
13. Exhibit J is a true and correct copy of the Declaration pertaining to the present invention signed by me on August 16, 1999, and by Ralph Reese on August 17, 1999.

14. Exhibit K is a true and correct copy of the coversheet of Exhibit G with handwritten notes by Jeff Standley. Exhibit K demonstrates that Exhibits I and J were received by Jeff Standley on August 19, 1999.
15. Exhibit L is a true and correct copy of a postcard confirmation from the U.S. Patent and Trademark Office ("PTO") demonstrating that the application for the present invention was received by the PTO on August 20, 1999.
16. While President of Communication & Commerce, Alan Truitt was responsible, among other things, for providing strategic direction to the company, business development, and operational guidance. He was also responsible for consulting with attorneys regarding the company's IP strategy, and reviewed patent applications associated with the company's technology. During the time of preparing this patent application, he was part of a very busy start-up company with many demanding business needs. He handled the review and preparation of the patent application in a diligent and reasonable manner in accordance with the demands the various responsibilities placed on me as President of Communication & Commerce.

Therefore, the presently claimed invention was conceived by Ralph Reese and Alan Truitt prior to July 9, 1999. Ralph Reese, Jeff Standley, and Alan Truitt were diligent in preparing and filing the application for the presently claimed invention from prior to July 9, 1999, until the present invention's filing date of August 20, 1999. Furthermore, any delay during this period was reasonable considering the circumstances of the party and the limited amount of time between receiving each draft of the application and providing comments back to Jeff Stadley. The diligence of 35 U.S.C. 102(g) relates to reasonable "attorney-diligence" and "engineering-diligence" (*Keizer v. Bradley*, 270 F.2d 396, 397, 123 USPQ 215, 216 (CCPA 1959)), which does not require that "an inventor or his attorney ... drop all other work and concentrate on the particular invention involved..." *Emery v. Ronden*, 188 USPQ 264, 268 (Bd. Pat. Inter. 1974). *See also Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986) (Reasonable diligence is all that is required of the attorney. Reasonable diligence is established if attorney worked reasonably hard on the application during the continuous critical period. If the attorney has a reasonable backlog of unrelated cases which he takes up in chronological order

and carries out expeditiously, that is sufficient. Work on a related case(s) that contributed substantially to the ultimate preparation of an application can be credited as diligence.). Here, the inventors and the attorney had negligible periods of delay taking into consideration the need to revise the draft of the patent application, provide updated drafts, sign documents, and file the patent application and considering the other normal demands on the inventors and the patent attorney during the period from just before July 9, 1999 to August 20, 1999.

Therefore, Applicant respectfully submits the declarations of Alan R. Truitt and Ralph H. Reese demonstrate that presently claimed invention was actually conceived before July 9, 1999 and the inventors and attorney were diligent in preparing and filing the patent application from between July 9, 1999 through August 20, 1999. Therefore, Applicants respectfully submit, for at least the reasons stated above, that *Dhir* does not anticipate the pending claims and that the present rejections are overcome.

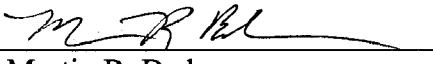
CONCLUSION

Applicants respectfully submit that the above amendments and remarks place the pending claims in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. If there are any outstanding issues, the undersigned can be reached directly at (858) 720-2554.

Respectfully submitted,

PAUL, HASTINGS, JANOFSKY & WALKER LLP

Date: March 3, 2008

By: 

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